

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION**

TRAVELERS CASUALTY AND SURETY)
COMPANY OF AMERICA,)
)
Plaintiff.)
)
v.)
)
HARLINGEN CONSOLIDATED)
INDEPENDENT SCHOOL DISTRICT; *et al.*)
)
Defendants.)

CASE NO.: 7:16-cv-411

JOINT PROPOSED FINAL JUDGMENT

Following a thorough review of the pleadings, the facts, and the law, and consistent with the Court's Orders entered on October 30, 2017 [Dkt. 48] and on November 2, 2018, [Dkt. 69], the Court ORDERS, ADJUDGES, and DECREES that final judgment is hereby granted in favor of Travelers's Casualty and Surety Company of America ("Travelers") and against Harlingen Consolidated Independent School District ("HCISD"), as follows:

1. The Court hereby DECLARES that Travelers is entitled to summary judgment as a matter of law on Count One of its First Amended Complaint because HCISD's claims on the Performance Bond are time-barred and it is DECLARED and ADJUDGED that Travelers has no liability on Performance Bond No. 105796547 that is the subject of this cause to HCISD;
2. The Court finds it unnecessary to address Count Two of Travelers's First Amended Complaint as the issues presented by that Count are disposed of by the Court's ruling on Count One, and this Count is hereby dismissed as moot;
3. The Court hereby DECLARES that Travelers is entitled to summary judgment as a matter of law on Count Three of its First Amended Complaint because HCISD materially breached its contractual obligation by releasing retainage without Travelers's consent and it is DECLARED and ADJUDGED that Travelers has no liability on Payment Bond No. 105796547 that is the subject of this cause to any third party claimants; it is further

DECLARED and ADJUDGED that HCISD shall be directly liable for payment of valid payment bond claims, if any, relating to Payment Bond No. 105796547;

4. The Court hereby VACATES, its prior Order contrary to the declaration and judgment regarding Count Three of Travelers's First Amended Complaint;
5. The Court finds it unnecessary to address Count Four of Travelers's First Amended Complaint as the Parties have amicably resolved this issue and therefore this Count is hereby dismissed as moot;

Because the foregoing disposes of every issue presented to the Court for consideration, this is a FINAL JUDGMENT for all purposes under the Federal Rules of Civil Procedure and as to all facts and matters presented to the Court.

SIGNED on _____, 2019, at McAllen Texas.

Randy Crane
United States District Judge

AGREED AS TO FORM AND SUBSTANCE:

/s/ Ryan D. Dry
Ryan D. Dry
State Bar No. 24050532
KREBS FARLEY, PLLC
2301 West Plano Parkway, Suite 220
Plano, Texas 75075
214-945-3027 Telephone
214-945-3021 Facsimile
rdry@kfplaw.com

**ATTORNEYS FOR TRAVELERS
CASUALTY AND SURETY COMPANY
OF AMERICA**

/s/ Leandra Costilla Ortiz

Leandra Costilla Ortiz

WALSH GALLEGOS TREVIÑO RUSSO & KYLE P.C.

State Bar No. 24043854

105 East 3rd Street

Weslaco, Texas 78596

956-647-5122 Telephone

956-647-5421 Facsimile

lortiz@wabsa.com

**ATTORNEYS FOR HARLINGEN
CONSOLIDATED INDEPENDENT
SCHOOL DISTRICT**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing document has been served in accordance with the Federal Rules of Civil Procedure to all counsel of record via the ECF system on this 27th day of February, 2019:

/s/ Ryan D. Dry

Ryan D. Dry